

Duncan J. McNeill

Spokane County Jail, # 293752

2030 W. Spofford

Spokane WA 99205

REQUEST FOR REASONABLE  
ACCOMMODATIONS TO:

U.S. DISTRICT COURT.

DISTRICT OF DELAWARE

IN RE KAISER ALUM. CORP. ET AL.  
DEBTORS

JOINTLY ADMINISTERED  
UNDER BANKRUPTCY  
CASE NO. 02-10429 (JRF)

DUNCAN J. MCNEIL, III  
APPELLANT

APPEALS  
CASE NO.

1:05-CV-574

V.

KAISER ALUM. CORP. ET AL.

1:06-CV-178  
REQUEST FOR REASONABLE ACCOMMODATION

① OBJECTION TO DEBTORS  
MOTIONS TO CONSOLIDATE

APPEALS, WAIVE MEDIANATION  
& EXPEDITED HEARING;

② MOTION FOR RELIEF

FROM DEFAULTS/DISMISSALS;

③ MOTION FOR ACCESS TO  
COURT & EXTENSION &  
CONSOLIDATION OF APPEALS

APPELLANT



APPELLANT, DUNCAN J. MCNEIL, III, IN  
CASES 05-CV-574 & 06-CV-178, BEING  
SWORN UPON OATH, HEREBY DECLARES AS  
FOLLOWS:

1. THAT ON 3/25/06 I FIRST RECEIVED  
A COPY OF THE DEBTOR'S MOTION(S), DOC  
# 6 IN CASE NO 06-CV-178.

2. THAT SINCE I FILED MY NOA WHICH  
RESULTED IN CASE NO. 06-CV-178, THIS  
FILED

WAS THE FIRST NOTICE, MOTION, ORDER, COURT PLEADING OR OTHER DOCUMENT THAT I HAVE RECEIVED AS TO MY APPEAL OF THE CONFIRMATION OF THE PLAN.

2. THAT IN CASE NO. 05-CV-574, I HAVE NOT RECEIVED ANY NOTICE, MOTION, ORDER OR COURT PLEADING OR OTHER DOCUMENT, SINCE LATE 2005, WHEN I RECEIVED THE CLERK'S NOTICE REQUIRING THAT I FILE A PROOF OF SERVICE ON DEBTOR'S COUNSEL AS TO MOTIONS THAT I HAD PREVIOUSLY FILED IN 05-CV-574. THAT I PROMPTLY COMPLIED WITH THE CLERK'S INSTRUCTION, ~~FILED MY~~ EFFECTING SERVICE AND FILING MY PROOF OF SERVICE.

3. I HAVE RECEIVED NO OPPOSITION FROM THE DEBTOR OR ORDERS OF THE COURT DISPOSING OF MY MOTIONS AND MY APPEAL IN CASE NO. 05-CV-574.

4. THAT THE DEBTOR'S 3/17/06 MOTIONS IN CASE NO.

06-CV-178 (DOCKET #6), ASSERTS AT PG 2, FOOTNOTE 4, THAT THE BANKRUPTCY COURT HAS ISSUED A "NOTICE OF DEFICIENCY FOR FAILURE TO PAY THE FEE (D.I. 8268)", AND THE DEBTOR'S MOTION FURTHER STATES THAT THIS COURT "DISMISSED" MY APPEAL IN CASE NO. 05-CV-574, CITING TO D.I. 3#15, IN THAT CASE,

SO I HEREBY CERTIFY THAT WHILE I RECEIVED AND INITIALED ORDER IN 05-CV-574, DENYING ME IRP WAIVER OF FEES (PRESUMABLY DOCKET #3), I DID NOT PERCEIVE ANY ORDER ANY ORDER OR NOTICE (OTHER THAN DI #6 IN 06-CV-178) THAT MY APPEAL IN 05-CV-574, HAD BEEN DISMISSED. LIKE WIFE, I HAVE NOT RECEIVED THE DEFICIENCY NOTICE IN CASE NO. 06-CV-178 (USBC-D-DE, DI 8268), OR ANY OTHER NOTICE OR ORDER IN 06-CV-178, EXCEPT DI #6.

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6. SINCE EARLY DECEMBER OF 2005 MY LEGAL MAIL HAS BEEN CONSISTENTLY REJECTED AND RETURNED TO SENDER" BY MY INSTITUTE OF INCARCERATION AND THE U.S. POSTAL SERVICE, IN AN UNLAWFUL VIOLATION OF MY 1<sup>ST</sup> AMEND. RIGHTS OF ACCESS TO THE COURTS.

7. I ~~HAVE RECENTLY~~ BELIEVE THAT I HAVE RECENTLY RESOLVED THE UNLAWFUL VIOLATION OF MY 1<sup>ST</sup> AMEND. RIGHTS, ~~AND ~~THE~~ ~~VIOLATION~~~~ BY CAUSING THE TERMINATION OF THE UNLAWFUL REJECTION OF MY LEGAL MAIL, WHICH ALLOWED ME TO RECEIVE DOCKET #6 IN 06-CV-178, ON OR ABOUT ON 3/25/06.

8. MY DUE PROCESS RIGHTS HAVE BEEN VIOLATED IN CASES ① 02-10429; ② 05-CV-574; ③ 06-CV-178, AS I HAVE NOT RECEIVED ANY NOTICES, ORDERS, COURT PLEADINGS IN THESE CASES, SINCE NOVEMBER OF 2005.

9. I LEARNED THAT THE HABER REORIENTATION PLAN HAD

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BEEN CONFIRMED BY AN ARTICLE IN THE LOCAL SPOKANE NEWS PAPER AND FILED MY NOTICE OF APPEAL BASED UPON THE NEWS ARTICLE. DUE TO THE UNLAWFUL REJECTION OF MY LEGAL MAIL, AND VIOLATION OF MY 1<sup>ST</sup> AMEND RIGHTS, I WAS DENIED ALL OPPORTUNITY TO OBJECT TO THE PLAN CONFIRMATION, OR FULFILL MY RIGHT TO NOTICE AND OPPORTUNITY TO BE HEARD.

10. I HEREBY OBJECT TO THE DEBTOR'S MOTIONS TO CONSOLIDATE, WAIVE MEDIATION & EXPEDITE.

11. I HEREBY MOVE THE COURT TO CONSOLIDATE CASES NO. 05-CV-574 AND 05-CV-178, BUT TO DENY THE CONSOLIDATION OF MY APPEALS WITH THE INSURANCE COMPANY APPEALS.

12. I FURTHER ~~SEEK~~ THE DENIAL OF THE DEBTOR'S MOTION TO WAIVE THE MEDIATION REQUIREMENT ESTABLISHED BY THIS COURT'S ORDER DATED 7/23/04, REQUIRING APPELLATE PARTIES TO MEDIATE THEIR DISPUTES.

13. I MOVE THE COURT TO ENFORCE IT'S 7/23/04 MEDIATION ORDER, AS I AM CONFIDENT THAT THE INSTANT APPEALS CAN BE SETTLED THROUGH THE COURT ORDERED MEDIATION PROCESS.

14. I ALSO ASK THAT THE COURT DENY THE DEBTOR'S MOTION TO EXPEDITE THESE APPEALS, AT LEAST UNTIL I AM GRANTED ACCESS TO THE COURT, AND I RECEIVE COPIES OF THE COURT'S ORDERS, DOCKETS AND NOTICES, AND I HAVE HAD THE OPPORTUNITY TO DESIGNATE THE RECORD ON APPEAL.

15. I MOVE THE COURT FOR AN EXTENSION OF TIME TO RECEIVE, RESPOND TO AND/OR REPLY OR OBTAIN RELIEF FROM THE COURT'S ORDERS IN 05-CV-574 AND 06-CV-178, AND FOR AN EXTENSION OF TIME TO SUBMIT EVIDENCE AS TO MY LACK OF DISQUALIFYING "STRIKES" OR THE INAPPLICABILITY OF 28 U.S.C. §

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1915(9) TO THESE APPEALS.

16. I HEARBY CERTIFY THAT AT THE APPLICABLE TIMES OF COMMENCEMENT OF THESE APPEALS, THAT I DID NOT HAVE 3 COUNTABLE "STRIKES" AS DEFINED BY § 1915(9) AND THAT I HAD NOT "STRUCK OUT," AS PROVIDED BY THE APPLICABLE CASE LAW INTERPRETING § 1915(9).

17. GIVEN THE OPPORTUNITY TO BE HEARD, I CAN ESTABLISH THAT I HAVE MULTIPLE "FUNDAMENTAL INTERESTS" AT ISSUE IN THESE ACTIONS, AS TO ~~THE~~ MY DEFENSES TO THE "CLAIMED STRIKES", WHICH RESULT IN THE MANDATORY WAIVER OF THE COSTS AND FEES IN THESE APPEALS, ACCORDING TO MANDATES ISSUED BY THE U.S. SUPREME COURT.

18. AS SUCH, I HEARBY SEEK THE GRANTING OF REASONABLE ACCOMMODATIONS, BY THIS COURT, ALLOWING ME ACCESS TO THIS COURT, TO

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ACCOMMODATE MY ESTABLISHED DISABILITY AND INDIGENCY (SEE IFP MOTION FILED HERewith, AND PREVIOUSLY FILED IN 05-CV-574~~2~~ WHICH ARE INCORPORATED HEREIN) SO I AM NOT DENIED THE BENEFITS, ~~AND~~ SERVICES, PROGRAMS AND ACTIVITIES OF THIS COURT, ON ACCOUNT OF MY DISABILITY & INDIGENCY (SEE PEOPLE U. CALDWELL, 603 N.Y.S.2d 713, 159 Misc.2d 180 (N.Y. City Crim. Ct. 1993); GALLOWAY U. SUPERIOR COURT OF DISTRICT OF COLUMBIA, 816 F. SUPP. 12 (D.D.C. 1993); SIANTAGO U. GARCIA, 70 F. SUPP. 2d 84 (D. Puerto Rico 1999); PENNSYLVANIA T.O.C. U. YESKEY, 524 U.S. 206 (1998); HALL U. THOMAS, 190 F.3d 683 (5th Cir 1999)).

19. AS SUCH, SO THAT I AM NOT DISCRIMINATED AGAINST, I SEEK THE GRANTING, BY ADMINISTRATIVE ORDER OF THE COURT, THE FOLLOWING REASONABLE ACCOMMODATIONS SO THAT I AM NOT UNLAWFULLY DENIED THE BENEFITS, SERVICES, PROGRAMS

AND ACTIVITIES OF THIS COURT,  
AND SO THAT MY 1<sup>ST</sup> AMEND,  
RIGHTS OF ACCESS TO THIS COURT  
ARE NOT FURTHER VIOLATED?

A. RELIEF FROM THE COURT'S  
PRIOR ORDERS OF DEFAULT OR  
DISMISSAL, IN 05-CV-574 AND  
06-CV-178, ~~ALONG WITH~~ ENTERED  
WITHOUT NOTICE, ~~OR~~ ~~OFF~~ SERVICE  
OR OPPORTUNITY TO BE HEARD, ALONG  
WITH AN EXTENSION OF TIME TO  
CURE ANY DEFECTS OR DEFAULTS  
IN THESE APPEALS;

B. THE WAIVER OF THE COSTS  
AND FEES IN THESE APPEALS, WHERE  
THE APPELLANT HAS MULTIPLE  
"FUNDAMENTAL INTERESTS" AT STAKE,  
PURSUANT TO THE MANDATE OF THE  
U.S. SUPREME COURT;

C. A COPY OF THE DOCKET AND  
COURT FILE IN 05-CV-574 AND  
06-CV-178, SO THAT APPELLANT  
HAS ACCESS TO THE COURT RECORD  
AS TO THE PENDING APPEALS;

D. A COPY OF THE COURT  
DOCKET IN CASE # 02-10429, FROM

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D.I. 6828 OF 5/23/05, TO PRESENT,  
FOR USE IN THE DESIGNATION OF  
THE RECORD IN THE APPEAL;

E. FOR AN <sup>ADMINISTRATIVE</sup> ORDER TO THE  
CLERK OF THIS COURT TO EFFECT  
SERVICE OF THE APPELLANT'S  
PLEADINGS IN 05-CV-574 AND  
06-CV-178, BY ELECTRONIC NOTICE  
AND FILING, ON DEBTOR'S COUNSEL,  
BY WAY OF THE COURT'S CM/ECF  
SYSTEM, INCLUDING BUT NOT  
LIMITED TO THE INSTANT PLEADINGS;

F. FOR AN ADMINISTRATIVE  
ORDER TO APPELLANT'S INSTITUTION  
OF INCARCERATION, PROVIDING  
APPELLANT ADEQUATE AND MEANINGFUL  
ACCESS TO THE JAIL LAW LIBRARY,  
COPYER, PENS, PAPER, ENVELOPES,  
AND OTHER LEGAL RESOURCES  
NECESSARY TO ALLOW THE APPELLANT  
TO ~~PRESENT~~ FULLY AND FAIRLY  
PRESENT HIS CLAIMS TO THIS  
COURT, AS THE APPELLANT IS  
PRESENTLY SUFFERING A  
TOTAL AND COMPLETE DENIAL  
OF ADEQUATE AND MEANINGFUL  
ACCESS TO THE LAW LIBRARY,

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COPIER, PENS, PAPER, ENVELOPES,  
AND OTHER LEGAL RESOURCES (SEE  
BOUNDS V. SMITH, 430 U.S. 817, AT  
824-25 (1977)), RESULTING IN AN  
"ACTUAL INJURY" OF THE INABILITY  
TO COMPLY WITH THE COURT'S RULES  
DEADLINES AND PROCEDURES (SEE  
LEWIS V. CASEY, 518 U.S. 343, AT 354-  
355 (1996)), RESULTING IN THE  
APPELLANT'S DENIAL OF HIS 1<sup>ST</sup>  
AMEND. CONSTITUTIONAL RIGHT OF  
ACCESS TO THIS COURT, IN ORDER TO  
PRESERVE AND PROTECT HIS  
"FUNDAMENTAL INTERESTS" WHICH  
HAVE BEEN PLACED AT ISSUE IN  
THESE APPEALS, BY THE COURT'S  
SUA SPONTE, ERRONEOUS "3-STRIKE"  
FINDING AND DETERMINATION.

I DECLARE THE FOREGOING  
TO BE TRUE AND CORRECT UNDER  
THE PENALTY OF PERJURY,  
PURSUANT TO THE LAWS OF THE  
U.S., EXECUTED, <sup>FILED</sup> ~~AT~~ AND MAILED,  
~~BY~~ ON 3/27/06, BY PLACING ~~A COPY~~  
~~OF~~ THIS PLEADING INTO THE OUTGOING  
INDICENT MAIL AT SET, ~~2E-04~~,  
ON 3/27/06.

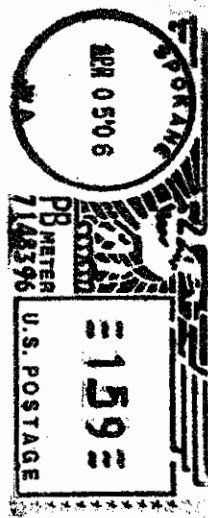
DATED: 3/27/06

*[Signature]*  
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~~AUG 21 2004~~

DUNCAN J. MALIK, III  
SPOKANE CO. JAIL  
1100 W. MALCOLM  
SPOKANE, WA 99260

CLERK  
U.S. DISTRICT COURT  
844 KING STREET  
LOCK BOX 18  
WICOMINGTON, DE 19801-3570



U.S. MAIL  
X-RAY

LEONARD MALIK